

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

UNITED STATES OF AMERICA, ) CASE NO. 4:14-CR-023-A  
Government, )  
VERSUS ) FORT WORTH, TEXAS  
CHRISTOPHER ROBERT WEAST, ) JULY 29, 2014  
Defendant. ) 8:56 A.M.

VOLUME 14 OF 16  
TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE JOHN MCBRYDE  
UNITED STATES DISTRICT COURT JUDGE, AND A JURY

**A P P E A R A N C E S :**

FOR THE GOVERNMENT: MS. AISHA SALEEM  
MR. DAN COLE  
UNITED STATES DEPARTMENT OF JUSTICE  
NORTHERN DISTRICT OF TEXAS  
801 Cherry Street, Suite 1700  
Fort Worth, Texas 76102-6882  
Telephone: 817.252.5200

FOR THE DEFENDANT: MR. CHRISTOPHER ROBERT WEAST  
(via video conference) #47797-177  
BOP Fort Worth FCI  
P.O. Box 15330  
Fort Worth, Texas 76119

MR. PETER FLEURY  
ASSISTANT FEDERAL PUBLIC DEFENDER  
NORTHERN DISTRICT OF TEXAS  
819 Taylor Street, Room 9A10  
Fort Worth, Texas 76102  
Telephone: 817.978.2753

MS. PATRICIA TOVAR, Paralegal

1 FOR THE DEFENDANT: MS. ANGELA SAAD  
(in courtroom) MR. CHRIS CURTIS  
2 ASSISTANT FEDERAL PUBLIC DEFENDER  
NORTHERN DISTRICT OF TEXAS  
3 819 Taylor Street, Room 9A10  
Fort Worth, Texas 76102  
4 Telephone: 817.978.2753

5 COURT REPORTER: MS. DEBRA G. SAENZ, CSR, RMR, CRR  
501 W. 10th Street, Room 424  
6 Fort Worth, Texas 76102  
Telephone: 817.850.6661  
7 E-Mail: debbie.saenz@yahoo.com

8  
9 Proceedings reported by mechanical stenography, transcript  
10 produced by computer.

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**P R O C E E D I N G S**

July 29, 2014 - 8:56 a.m.

*(Defendant Weast not present via video conference)*

*(Jury not present)*

COURT SECURITY OFFICER: All rise.

*(Judge enters)*

COURT SECURITY OFFICER: Please be seated.

THE COURT: Okay. We're here for a resumption of the trial in Case Number 4:14-CR-023-A, United States of America versus Christopher Robert Weast.

In reviewing the Charge this morning, I found two areas that need either to be changed or deleted.

On pages 7 and 8 -- if each of you would get your proposed Charge in front of you. Here's a copy you can look at.

MR. CURTIS: Thank you, Your Honor. I think Angela has our Charge.

THE COURT: Here's a copy. Here's something else, Mr. Curtis, if you would.

MR. CURTIS: Yes, sir.

THE COURT: Here's a page that I've changed for each of you.

Okay. On pages 7 and 8, the paragraph that starts fairly close to the bottom of the page, in determining whether any statement claimed to have been made by the defendant, so

1 on, and going through the top of page 8, paragraph at the top  
2 of page 8, I don't think that's applicable because I don't  
3 think there was any evidence of any statement the defendant  
4 made.

5 So my thought is that that ought to come out, unless  
6 somebody has a disagreement.

7 MS. SALEEM: None from the government.

8 MR. CURTIS: I don't see a problem.

9 MS. SAAD: No, none from defense.

10 THE COURT: Okay. Well, I'm going to take those two  
11 paragraphs out, in determining whether, so on, near the bottom  
12 of page 7, and the entire paragraph at the top of page 8, you  
13 may consider, so on.

14 Now, the other change I made, I've given you a  
15 retyped page 4. I've taken out the sentence: Also certain  
16 testimony or other evidence has been ordered removed from the  
17 record, and you have been instructed to disregard this  
18 evidence. Do not consider any testimony or other evidence  
19 which has been removed from your consideration in reaching  
20 your decision.

21 That touches on some of the things I instructed the  
22 jury, but I don't believe it's quite accurate, and so I've  
23 replaced it with the language in the new one I've given you,  
24 which says: You have been instructed not to consider certain  
25 evidence and to consider other evidence for limited purposes.

1 You are reminded of those instructions and your obligation to  
2 follow them. I think that more accurately describes what  
3 happened during the trial.

4 Does the government have any objection to  
5 substituting what I put in the new one for what was in the old  
6 one?

7 *MS. SALEEM:* No, Your Honor.

8 *THE COURT:* Does the defendant?

9 *MR. CURTIS:* I'm trying to still figure out what's  
10 the difference.

11 *THE COURT:* Well, I don't know that I -- do you know  
12 what the old one was? Do you want me to read it again?

13 *MR. CURTIS:* I'm comparing them, Your Honor. I was  
14 just --

15 *MS. SAAD:* Here, it's this one.

16 *MR. CURTIS:* Oh, I'm sorry. I'm looking -- that's  
17 why I can't tell the difference. I'm looking at the new  
18 Charge.

19 *THE COURT:* My point is the old one doesn't  
20 accurately describe what I said, but the new one does.

21 *MS. SAAD:* We have no objections, Your Honor.

22 *THE COURT:* Pardon?

23 *MS. SAAD:* We have no objections.

24 *THE COURT:* Okay. Well, we'll make that change.

25 Okay. Those are the only changes I had. There were

1 two jurors that had not arrived as of a few moments ago, as of  
2 the time I came in the courtroom. As soon as they arrive,  
3 we'll be back in session.

4 *MR. CURTIS:* May I mention something, Your Honor?  
5 With regard to the laptop that's going to go back there, I'm  
6 not real computer savvy myself. It does look like there -- I  
7 don't think there's anything they can access, other than just  
8 playing the disk, the video, but I was just going to request  
9 the Court to instruct them that they are not to use that  
10 laptop. I think it may be in there, but they shouldn't use  
11 that laptop for anything other than viewing the video.

12 *THE COURT:* I don't mind telling them that.

13 *MR. CURTIS:* I just want that to be clear.

14 *THE COURT:* Where is the laptop? Is it in here?

15 *MS. SALEEM:* Yes, Your Honor.

16 *THE COURT:* Let me see it and the instructions that  
17 go with it.

18 *MR. CURTIS:* They are pretty -- the instructions are  
19 pretty good, and I don't think they will have a problem using  
20 it, Your Honor, but there's some other programs on it that I  
21 think -- or that show up when you open the directory. I don't  
22 think they can access anything, and I trust the jury to use it  
23 for the right purpose.

24 *MR. COLE:* Do you want the laptop, too, Your Honor?

25 *THE COURT:* What is he talking about, that there are

1 other programs show up when you open it?

2 MR. COLE: You have to power it on.

3 MR. CURTIS: May I approach, Your Honor? I don't  
4 think it's a problem. I just wanted to be clear that they  
5 aren't supposed to use it.

6 THE COURT: Okay. Now, it's on. What is the  
7 potential problem that you're talking about, Mr. Curtis?

8 MR. CURTIS: Okay. Control, alt, delete, right. I  
9 can't do it. I can't even do that. Here we go. Where's  
10 delete on it?

11 Thank you. Go ahead. Thanks for helping me.

12 MS. SALEEM: And then our password is "Courtroom!"

13 MR. CURTIS: Exclamation point, and enter, and that  
14 should take us right to where all they have to do is play the  
15 video, Your Honor, which looks good.

16 But if you go down here to this start, and you go to  
17 the programs, see it shows some snipping tools. I don't think  
18 they can get any of these things.

19 MS. SALEEM: That's my understanding, Your Honor.

20 MR. CURTIS: And I can't get into anything, so I  
21 just want to make sure that they understand they are --

22 THE COURT: Well, I'd rather not have to give them  
23 special instructions, unless there's a good reason for doing  
24 it.

25 MR. CURTIS: Here, you -- go ahead, Angela. I



1       couldn't get the calculator off there.

2               *MS. SAAD:* It does allow you to access other  
3 programs, I mean, but -- like Microsoft Word.

4               *MR. CURTIS:* I think it's harmless, Your Honor. I  
5 just would feel better if they had an instruction not to use  
6 it for anything but to play the video.

7               *THE COURT:* Well, I don't mind telling them that. I  
8 just --

9               *MR. CURTIS:* I trust the jury would follow that  
10 instruction, if the Court told them to do that.

11              *THE COURT:* I'll tell them that.

12              *MR. CURTIS:* Thank you.

13              *THE COURT:* What if they get the disk in there and  
14 look at it and want to see it again? How do they go about  
15 doing that? Is there something that -- a replay or do they  
16 have to pull it out and start over again or --

17              *MS. SALEEM:* I believe they can just hit play again,  
18 Your Honor.

19              *THE COURT:* Do what?

20              *MS. SALEEM:* I believe they can just -- when it  
21 shows up on the screen, there's a play button. They could  
22 play it again. It should automatically --

23              *THE COURT:* Is it obvious how they do that?

24              *MS. SALEEM:* It should be pretty obvious, Your  
25 Honor.

1           *THE COURT:* I just wondered if you need to add that  
2 to the instructions.

3           *MS. SALEEM:* We can. We can do it. Out of an  
4 abundance of caution, we can do that.

5           *THE COURT:* Do you have any problem with that?

6           *MS. SAAD:* No, Your Honor.

7           *THE COURT:* Let's add that to the instructions, and  
8 how they play it again, if they decide they want to, without  
9 starting all over again.

10           Are they all here?

11           *COURT SECURITY OFFICER:* They are here, Judge.

12           *THE COURT:* Why don't you get them all out here.

13           Let me run back there a second, and I'll be out in a  
14 moment.

15           *COURT SECURITY OFFICER:* All rise.

16           *THE COURT:* Before I go, let me find out,  
17 is -- Ms. Tovar, are you there?

18           *MS. SAAD:* She is connected, Your Honor. We're  
19 waiting to see if the defendant is present.

20           Your Honor, Ms. Tovar is there, but the defendant is  
21 still not there.

22           *THE COURT:* Do we know what his situation is?

23           *COURT SECURITY OFFICER:* They told me he was there a  
24 few minutes -- or going there a few minutes ago. Apparently,  
25 he's just in --

1           THE COURT: Okay. Well, let's wait until he's  
2 there. And I think I'd like to confirm he's there before I  
3 go -- before you bring the jury in, so let's sit down a  
4 minute.

5           MS. SAAD: Your Honor, she just informed us that he  
6 is walking into the room that she is in.

7           THE COURT: Mr. Weast, are you -- let's see. Can he  
8 hear me? I'm sure he can.

9           MR. CURTIS: He can hear you.

10          THE COURT: Mr. Weast, are you there?

11          MR. CURTIS: She's texting -- I mean, she is typing.  
12 She says, we are ready, Your Honor.

13          THE COURT: Okay. We'll get the jury in.

14          *(Recess)*

15          *(Defendant Weast present via video conference)*

16          COURT SECURITY OFFICER: All rise.

17          *(Jury present)*

18          *(Judge enters)*

19          COURT SECURITY OFFICER: Please be seated.

20          THE COURT: Good morning.

21          THE JURY: Morning, Your Honor.

22          THE COURT: I'm going to read the instructions that  
23 explain to you what the law applicable to the case is and some  
24 factors to consider in your deliberations. They are rather  
25 lengthy.

1           You don't have a copy of these in the jury room when  
2 you go to deliberate, so listen closely. I'll explain to you  
3 in a minute the things you do have -- or will have in the jury  
4 room, but you will not have these instructions, so listen very  
5 closely.

6           In the jury room (sic), there are, in effect, two  
7 judges. I am one of the judges, the jury is the other. It is  
8 my duty to preside over the trial and to decide what evidence  
9 is proper for your consideration. It is also my duty at the  
10 end of the trial to explain the rules of law that you must  
11 follow and apply in arriving at your verdict.

12           First, I will give you some general instructions,  
13 which apply in every case, for example, instructions about  
14 burden of proof and how to judge the believability of  
15 witnesses. Next, I will give you some specific rules of law  
16 about this particular case. And, finally, I will explain the  
17 procedures you should follow in your deliberations.

18           You, as jurors, are the judges of the facts, but in  
19 determining what actually happened, that is, in reaching your  
20 decision as to the facts, it is your sworn duty to follow all  
21 of the rules of law as I explain them to you.

22           You have no right to disregard or give special  
23 attention to any one instruction or to question the wisdom or  
24 correctness of any rule I may state to you. You must not  
25 substitute or follow your own notion or opinion as to what the

1 law is or ought to be. It is your duty to apply the law as I  
2 explain it to you, regardless of the consequences.

3 It is also your duty to base the verdict solely upon  
4 the evidence received during the trial and the law as given  
5 and explained to you by the Court, without prejudice or  
6 sympathy for or against the defendant. That was the promise  
7 you made and the oath you took upon being accepted as jurors,  
8 and the Court and the parties have the right to expect nothing  
9 less.

10 The indictment or formal charge against the  
11 defendant is not evidence of guilt. Indeed, the defendant is  
12 presumed by the law to be innocent. The law does not require  
13 the defendant to prove his innocence or produce any evidence  
14 at all.

15 The defendant has been charged with violations of  
16 federal law. The indictment or formal charge against the  
17 defendant is not evidence of guilt. The defendant is presumed  
18 by law to be innocent. No inference whatever may be drawn  
19 from the election of the defendant not to testify. The  
20 government has the burden of proving the defendant guilty  
21 beyond a reasonable doubt, and if it fails to do so, you must  
22 acquit the defendant.

23 While the government's burden of proof is a strict  
24 or heavy burden, it is not necessary that the defendant's  
25 guilt be proved beyond all possible doubt. It is only

1 required that the government's proof exclude any reasonable  
2 doubt concerning the defendant's guilt.

3 A "reasonable doubt" is a doubt based upon reason  
4 and common sense after careful and impartial consideration of  
5 all the evidence in the case. Proof beyond a reasonable  
6 doubt, therefore, is proof of such a convincing character that  
7 you would be willing to rely and act upon it without  
8 hesitation in the most important of your own affairs.

9 As I told you earlier, it is your duty to determine  
10 the facts. In doing so, you must consider only the evidence  
11 presented during the trial, including the sworn testimony of  
12 the witnesses and the exhibits.

13 Remember that any statements, objections, or  
14 arguments made by the lawyers are not evidence. The function  
15 of the lawyers is to point out those things that are most  
16 significant or most helpful to their side of the case, and in  
17 so doing to call your attention to certain facts or inferences  
18 that might otherwise escape your notice. In the final  
19 analysis, however, it is your own recollection and  
20 interpretation of the evidence that controls in the case.  
21 What the lawyers say is not binding upon you.

22 Now, during the trial I sustained objections to  
23 certain questions and exhibits. You must disregard those  
24 questions and exhibits entirely. Do not speculate what the  
25 witness would have said if permitted to answer the question or

1 as to the contents of an exhibit.

2           You have been instructed not to consider certain  
3 evidence and to consider other evidence for limited purposes.  
4 You are reminded of those instructions and your obligation to  
5 follow them. Your verdict must be based solely on the legally  
6 admissible evidence and testimony.

7           Do not assume from anything I may have said or done  
8 during the trial that I have any opinion concerning any of the  
9 issues in this case. Except for the instructions to you on  
10 the law, you should disregard anything I may have said during  
11 the trial in arriving at your own findings as to the facts.

12           While you should consider only the evidence, you are  
13 permitted to draw reasonable inferences from the testimony and  
14 exhibits as you feel are justified in the light of common  
15 experience. In considering the evidence, you may make  
16 deductions and reach conclusions which reason and common sense  
17 leads you to draw from the facts which have been established  
18 by the evidence.

19           You should not be concerned about whether the  
20 evidence is direct evidence or circumstantial evidence. You  
21 should consider and weigh all of the evidence that was  
22 presented to you. "Direct evidence" is testimony of one who  
23 asserts actual knowledge of a fact, such as an eyewitness.  
24 "Circumstantial evidence" is proof of a chain of events and  
25 circumstances indicating that something is or is not a fact.

1           The law makes no distinction between the weight you  
2 may give to either direct or circumstantial evidence, but the  
3 law requires that you, after weighing all the evidence,  
4 whether direct or circumstantial, be convinced of the guilt of  
5 the defendant beyond a reasonable doubt before you can find  
6 him guilty.

7           I remind you that it is your job to decide whether  
8 the government has proved the guilt of the defendant beyond a  
9 reasonable doubt. In doing so, you must consider all of the  
10 evidence. This does not mean, however, that you must accept  
11 all of the evidence as true or correct.

12           You are the sole judges of the credibility or  
13 believability of each witness and the weight to be given that  
14 witness's testimony. An important part of your job will be  
15 making judgments about the testimony of the witnesses who  
16 testified in this case. You should decide whether you believe  
17 all, or some part, or none of what each person had to say, and  
18 how important that testimony was.

19           In making that decision, I suggest that you ask  
20 yourself a few questions:

21           Did the person impress you as honest? Did the  
22 witness have any particular reason not to tell the truth? Did  
23 the witness have a personal interest in the outcome of the  
24 case? Did the witness have any relationship with either the  
25 government or the defense? Did the witness seem to have a



1 good memory? Did the witness clearly perceive the things  
2 about which the witness testified? Did the witness have the  
3 opportunity and ability to understand the questions clearly  
4 and answer them directly? Did the witness's testimony differ  
5 from the testimony of other witnesses? These are a few of the  
6 considerations that will help you determine the accuracy of  
7 what each witness said.

8 Your job is to think about the testimony of each  
9 witness you have heard and decide how much you believe of what  
10 each witness had to say. In making up your mind and reaching  
11 a verdict, do not make any decision simply because there were  
12 more witnesses on one side or the other -- than the other. Do  
13 not reach a conclusion on a particular point just because  
14 there were more witnesses testifying for one side on that  
15 point. You will always bear in mind that the law never  
16 imposes upon the defendant in a criminal case the burden or  
17 duty of calling any witnesses or producing any evidence.

18 During the trial, you heard the testimony of  
19 witnesses who expressed opinions concerning various  
20 scientific, technical, or other matters involving specialized  
21 knowledge. If scientific, technical, or other specialized  
22 knowledge might assist the jury in understanding the evidence,  
23 or in determining a fact in issue, a witness qualified by  
24 knowledge, skill, experience, training, or education may  
25 testify and state an opinion concerning such matters.

1           Merely because such a witness has expressed an  
2 opinion does not mean, however, that you must accept that  
3 opinion. You should judge such testimony like any other  
4 testimony. You may accept or reject it and give it as much  
5 weight as you think it deserves, considering the witness's  
6 education and experience, the soundness of the reasons given  
7 for the opinion, and all other evidence in the case.

8           Okay. Now, so far I've given you some general  
9 instructions on how to evaluate the believability of witnesses  
10 and that sort of thing. I'm now to the point where I'm going  
11 to be giving you some specific instructions on what the law is  
12 applicable to this particular case, and what the government  
13 has to prove to find the defendant guilty of Count 1, and  
14 then, separately, Count 2.

15           Count 1 of the third superseding indictment alleges  
16 that the defendant violated 18 United States Code Section  
17 225A(a)(5)(B) (sic). Title 18 United States Code Section  
18 225A(a)(5)(B) (sic) makes it a crime to knowingly possess any  
19 book, magazine, periodical, film, videotape, computer disk, or  
20 any other material that contains an image of child pornography  
21 that was produced using material that have been mailed or  
22 shipped or transported in or affecting interstate or foreign  
23 commerce by any means, including a computer.

24           For you to find the defendant guilty of this crime,  
25 that is, the crime charged by Count 1, you must be convinced

1 that the government has proved each of the following beyond a  
2 reasonable doubt, and I'm going to list first, second, and  
3 third, the things the government has to prove to cause the  
4 defendant to be guilty of the offense charged by Count 1 of  
5 the indictment.

6 First, that the defendant knowingly possessed an  
7 item that contains an image of child pornography, as alleged  
8 in the indictment.

9 Second, that the material was produced using  
10 materials that had been mailed or shipped or transported in or  
11 affecting interstate or foreign commerce, including by  
12 computer.

13 Third, that when the defendant possessed the  
14 material, the defendant knew the material contained child  
15 pornography.

16 Let me go over those again. These are the three  
17 things, three elements, the government has to prove beyond a  
18 reasonable doubt for the defendant to be found guilty of the  
19 offense charged by Count 1 of the indictment.

20 First, that the defendant knowingly possessed an  
21 item that contains an image of child pornography, as alleged  
22 in the indictment.

23 Second, that the material was produced using  
24 materials that had been mailed or shipped or transported in or  
25 affecting interstate or foreign commerce, including by

1 computer.

2 And third, that when the defendant possessed the  
3 material, the defendant knew the material contained child  
4 pornography.

5 Okay. I'm going to talk about Count 2 of the  
6 indictment now.

7 Count 2 of the third superseding indictment alleges  
8 that the defendant violated Title 18 United States Code  
9 Section 2252A(a)(2)(A). Title 18 United States Code Section  
10 2252A(a)(2)(A) makes it a crime to knowingly receive any child  
11 pornography that has been shipped or transported in or  
12 affecting interstate or foreign commerce by any means,  
13 including by computer.

14 Now, for you to find the defendant guilty of this  
15 crime, the crime charged by Count 2 of the indictment, you  
16 must be convinced that the government has proved each of the  
17 following beyond a reasonable doubt, and, again, I'm going to  
18 tell you the exact things the government has to prove beyond a  
19 reasonable doubt for the defendant to be found guilty of the  
20 offense charged by Count 2.

21 First, that the defendant knowingly received an item  
22 of child pornography, as alleged in the indictment.

23 Second, that the item of child pornography had been  
24 shipped or transported in or affecting interstate or foreign  
25 commerce by a means -- by any means, including a computer.

1           And third, that when the defendant received the  
2 item, the defendant knew the item was child pornography.

3           Now, I'm going to go ahead now and explain some of  
4 the terms that I used when I was telling you what the elements  
5 are that have to be proved.

6           The word to "receive" means something -- means to  
7 knowingly accept or take possession of something. Receipt  
8 does not require proof of ownership.

9           Now, the term "child pornography" means any visual  
10 depiction, including any photograph, film, video, picture, or  
11 computer image or picture, whether made or produced by  
12 electronic, mechanical, or other means, of sexually explicit  
13 conduct, where the production of such visual depiction  
14 involves the use of a minor engaging in sexually explicit  
15 conduct. Such visual depiction must be of an actual minor.

16           Now, the term "minor" means any person under the age  
17 of 18 years.

18           The term "visual depiction" includes data stored on  
19 computer disk or by electronic means, which is capable of  
20 conversion into a visual image that has been transmitted by  
21 any means, whether or not stored in a permanent format.

22           The term "computer" means an electronic, magnetic,  
23 optical, electrochemical, or other high speed data processing  
24 device performing logical, arithmetic, or storage functions,  
25 and includes any data storage facility or communications

1 facility directly related to or operating in conjunction with  
2 such a device, but such term does not include an automated  
3 typewriter, or typesetter, or portable held calculator, or  
4 other similar device.

5 Now, the term "sexually explicit conduct" means  
6 actual or simulated sexual intercourse, including  
7 genital-genital, oral-genital, anal-genital, and oral-anal,  
8 whether between persons of the same or opposite sex;  
9 bestiality; sadistic or masochistic abuse; or lascivious  
10 exhibition of the genitals or pubic area of any person.

11 Be cautioned that not every exposure of the genitals  
12 or pubic area constitutes lascivious exhibition. Whether a  
13 visual depiction constitutes a lascivious exhibition requires  
14 a consideration of the overall content of the material.

15 You may consider such factors as whether the focal  
16 point of the visual depiction is on the child's genitalia or  
17 pubic area; whether the setting of the depiction is sexually  
18 suggestive, that is, in a place or pose associated with sexual  
19 activity; whether the child is depicted in an unnatural pose  
20 or in inappropriate attire, considering the age of the child;  
21 whether the child is fully or partially nude; whether the  
22 visual depiction suggests sexual coyness or a willingness to  
23 engage in sexual activity; or whether the depiction is  
24 designed to elicit a sexual response in the viewer. This list  
25 is not exhaustive, and no single factor is dispositive.

1           The word "knowingly" as that term is being used in  
2 this Charge, means that the act was done voluntarily and  
3 intentionally, not because of mistake or accident. the  
4 government must show that the defendant had knowledge of the  
5 sexually explicit nature of the material.

6           The government must also prove that the defendant  
7 had knowledge that the image involved the actual use of a  
8 minor. Although the defendant need not have specific  
9 knowledge as to the specific age of the minor, the defendant  
10 must have had knowledge that the material contains a visual  
11 depiction of an actual minor engaging in sexually explicit  
12 conduct.

13           Now, "interstate commerce" means commerce or travel  
14 between a state, territory, or possession of the United  
15 States -- no, let me back up.

16           "Interstate commerce" means commerce or travel  
17 between one state, territory, or possession of the United  
18 States and another state, territory, or possession of the  
19 United States, including the District of Columbia.

20           "Foreign commerce" means commerce or travel between  
21 any part of the United States, including its territorial  
22 waters, and any other country, including territorial waters.  
23 Commerce includes travel, trade, transportation, or  
24 communication.

25           Now, you will note that the indictment charges that

1 the offense was committed on or about a specified date as to  
2 each of the counts. The government does not have to prove  
3 that the offense charged by the count was committed on that  
4 exact date, so long as the government proves beyond a  
5 reasonable doubt that the defendant committed the crime on a  
6 date reasonably near the date stated in the indictment.

7 You have been instructed that your verdict, whether  
8 it is guilty or not guilty, must be unanimous. The following  
9 instruction applies to the unanimity requirement as to Count  
10 1.

11 Count 1 of the indictment accuses the defendant of  
12 committing the crime of knowing possession of material that  
13 contains an image of child pornography. Count 1 of the  
14 indictment accuses the defendant of possessing material that  
15 contains six images of child pornography.

16 You are again instructed that the government is only  
17 required to prove that the defendant possessed material  
18 containing a single image of child pornography for Count 1.  
19 The government does not have to prove all of those images are  
20 child pornography for you to return a guilty verdict on this  
21 charge. Proof beyond a reasonable doubt on one is enough, but  
22 in order to return a guilty verdict, all of you must agree  
23 that the same one or ones have been proved.

24 You are here to decide whether the government has  
25 proved beyond a reasonable doubt that the defendant is guilty



1 of the crime charged as to each count. The defendant is not  
2 on trial for any act, conduct, or offense not alleged in the  
3 indictment, nor are you called upon to render -- return a  
4 verdict as to the guilt of any other person or persons not on  
5 trial as a defendant in this case.

6 Let me correct something here.

7 During the trial, you've heard evidence of acts of  
8 the defendant which may be similar to those charged in the  
9 indictment, but which were committed on other occasions. You  
10 must not consider any of this evidence in deciding whether the  
11 defendant committed the acts charged in the indictment,  
12 however, you may consider this evidence for other very limited  
13 purposes.

14 For you to find beyond a reasonable doubt from other  
15 evidence in this case -- let me start that sentence over.

16 If you find beyond a reasonable doubt from other  
17 evidence in this case that the defendant did commit the acts  
18 charged in the indictment, then you may consider evidence of  
19 the similar acts allegedly committed on other occasions to  
20 determine whether the defendant had the state of mind or  
21 intent necessary to commit the crime charged in the  
22 indictment; whether the defendant had the motive or  
23 opportunity to commit the acts charged in the indictment; or  
24 whether the defendant committed the acts for which he is on  
25 trial by accident or mistake. These are the limited purposes

1 for which any evidence of other similar acts may be  
2 considered.

3 A separate crime is charged against the defendant in  
4 each count of the indictment. Each count, and the evidence  
5 pertaining to it, should be considered separately as to the  
6 defendant. The fact that you may find the defendant guilty or  
7 not guilty of one count -- one of the counts does not control  
8 your verdict as to the other count.

9 If the defendant is found guilty, it will be my duty  
10 to decide what the punishment would be. You should not be  
11 concerned with punishment in any way. It should not enter  
12 your consideration or discussion.

13 During your deliberations, you must not communicate  
14 with or provide any information to anyone by any means about  
15 this case. You may not use any electronic device or media,  
16 such as a telephone, a cell phone, smartphone, iPhone,  
17 BlackBerry, computer, internet or internet service, any text  
18 or instant messaging service, any internet chat room, blog, or  
19 website, such as Facebook, MySpace, LinkedIn, YouTube, or  
20 Twitter to communicate to anyone any information about this  
21 case or to conduct any research about this case until I accept  
22 your verdict.

23 In other words, you can't talk to anyone on the  
24 telephone, correspond with anyone, or electronically --  
25 electronically communicate with anyone about this case. You

1 can only discuss the case in the jury room with your fellow  
2 jurors during deliberations, and I will expect you will inform  
3 me as soon as you become aware of another juror's violation of  
4 these instructions.

5           You may not use these electronic means to  
6 investigate or communicate about the case because it is  
7 important that you decide this case based solely on the  
8 evidence presented in the courtroom. Information on the  
9 internet or available through social media might be wrong,  
10 incomplete, or inaccurate.

11           You are only permitted to discuss this case with  
12 your fellow jurors during deliberations because you have seen  
13 and heard the same evidence. In our judicial system, it is  
14 important that you not be influenced by anything or anyone  
15 outside the courtroom. Otherwise, your decision may be based  
16 on information known only by you and not your fellow jurors or  
17 the parties in the case. This would unfairly and adversely  
18 impact the judicial process.

19           Now, to reach a verdict, whether it is guilty or not  
20 guilty, all of you must agree. Your verdict must be unanimous  
21 as to each count of the indictment. Other than the  
22 possibility that the Court could make an inquiry into whether  
23 deliberations were conducted properly, your deliberations will  
24 be secret, and you will never have to explain your verdict to  
25 anyone.

1           It is your duty to consult with one another and to  
2 deliberate in an effort to reach agreement, if you can do so.  
3 You must individually decide the case for yourselves, but only  
4 after an impartial consideration of the evidence with your  
5 fellow jurors.

6           During your deliberations, do not hesitate to  
7 reexamine your own opinions and change your mind if convinced  
8 that you were wrong, but do not give up your honest beliefs as  
9 to the weight or effect of the evidence solely because of the  
10 opinion of your fellow jurors or for the mere purpose of  
11 returning a verdict.

12           Remember at all times you are judges, judges of the  
13 facts. Your duty is to decide whether the government has  
14 proved the defendant guilty beyond a reasonable doubt.

15           Now, the first thing you do when you go to the jury  
16 room is to select one of your -- one of the members of the  
17 jury as your foreperson, and the foreperson will help to guide  
18 your deliberations and will speak for you here in the  
19 courtroom.

20           A form of verdict has been prepared for your  
21 convenience, and I'll explain that to you in a moment.

22           The foreperson will write the unanimous answer of  
23 the jury in the space provided for each count of the  
24 indictment, either guilty or not guilty. At the conclusion of  
25 your deliberations, the foreperson should date and sign the

1 verdict form.

2           If you need to communicate with me during your  
3 deliberations, the foreperson should write the message and  
4 give it to the court security officer. The court security  
5 officer will be outside the jury room door throughout your  
6 deliberations if you need -- if the jury needs to communicate  
7 with the Court in any respect, simply give him a written  
8 message. The foreperson would give him a written message, and  
9 he'll bring it to the Court and we'll respond appropriately.  
10 Either I will bring -- reply in writing or bring you back into  
11 the court to answer your message.

12           Now, bear in mind you are never to reveal to any  
13 person, not even to the Court, how the jury stands,  
14 numerically or otherwise, on a count of the indictment -- on  
15 either count of the indictment, until the jury has reached a  
16 unanimous verdict.

17           Now, the things you'll have in the jury room with  
18 you will be the verdict form that I mentioned, and it's -- the  
19 verdict form, itself, is actually only a one-page document.  
20 It has two sections, two sentences. One of the sentences is:

21           We, the jury, find the defendant Christopher Robert  
22 Weast, and then it has a blank space, and then it goes on to  
23 say, as to Count 1 of the indictment.

24           And then the other sentence is:

25           We, the jury, find the defendant Christopher Robert

1 Weast, has a blank space, as to Count 2 of the indictment.

2 Each of those blank spaces is to be filled in by the  
3 word "guilty" or the words "not guilty", depending on what the  
4 unanimous verdict of the jury is.

5 If the jury unanimously finds that the government  
6 has proved beyond a reasonable doubt that the defendant  
7 committed the offense charged by Count 1 of the indictment,  
8 then the foreperson will write the word "guilty" in that  
9 blank.

10 If the jury unanimously concludes that the  
11 government has failed to prove beyond a reasonable doubt that  
12 the defendant committed the offense charged by Count 1 of the  
13 indictment, then the foreperson will write the words "not  
14 guilty" in that blank, and the same applies to the Count 2.

15 And once the jury has reached a unanimous verdict as  
16 to each of the counts, then the foreperson will sign and date  
17 that.

18 Now, attached to the verdict form is the exact  
19 wording of the third superseding indictment, the two counts,  
20 so you can see exactly what you're voting on, and I remind you  
21 that that's not evidence. I'm simply putting that there as a  
22 reminder of what the indictment charges for those two counts.

23 Now, in addition to having -- and of course, when  
24 the jury does reach a verdict, the foreperson will make known  
25 to the court security officer that a verdict has been reached,

1 and you'll be brought into the courtroom and deliver the  
2 verdict to the Court.

3 Now, you'll also have in the jury room all of the  
4 exhibits that were received in evidence, and that includes in  
5 the exhibits a disk -- and I believe it's Exhibit 48, if my  
6 memory serves me -- a disk that relates to I believe it's  
7 Count 2 of the indictment.

8 You will also have in the jury room a laptop  
9 computer on which that disk can be played with some  
10 instructions. I'm sure that most, if not all of you, would  
11 know how to operate it without instructions, but we're also  
12 going to give you some instructions on how to use it, if you  
13 want to view that disk, and I assume that you will since  
14 that's the subject of Count 2 of the indictment.

15 I do caution you not to try to use that computer for  
16 some other purpose. I don't think there's anything else on it  
17 that could be drawn up or whatever you -- uploaded or whatever  
18 they call it, to look at, but if there were, don't -- if there  
19 happened to be. I don't think there's anything else on it,  
20 but you'll have that laptop in there for that purpose, and  
21 don't use it for anything other than to play the disk that is  
22 in evidence, and I think it's Exhibit 48.

23 From this -- let me have the attorneys come up here  
24 just a second.

25 *(Bench conference on the record, out of the hearing*

1                   *of the jury, as follows:)*

2                   *THE COURT:* Does the government have any objection  
3 to the Court's Charge or the verdict form as I've read and  
4 explained them to the jury?

5                   *MS. SALEEM:* No, Your Honor.

6                   *THE COURT:* Does the defendant?

7                   *MS. SAAD:* None other than previously stated.

8                   *THE COURT:* Okay. Well, we're going to have to  
9 state them again because I can't recall everything that's been  
10 previously stated.

11                   What are your objections?

12                   *MS. SAAD:* One of the objections was to unanimity.

13                   *THE COURT:* Was what?

14                   *MS. SAAD:* The unanimity instruction that we had  
15 requested during the jury charge conference.

16                   *THE COURT:* We haven't had a jury charge conference  
17 and so --

18                   *MS. SAAD:* We had the teleconference call, Your  
19 Honor, where you addressed the --

20                   *THE COURT:* Okay. Look at the agreed Charge that  
21 y'all filed on July 17 and tell me what you're referring to  
22 now.

23                   *MS. SAAD:* Yes, Your Honor.

24                   *THE COURT:* You can refer to the page on it.

25                   *MS. SAAD:* Yes, Your Honor.



1           THE COURT: Can you tell me what's left out that you  
2 think ought to be in there?

3           MS. SAAD: On page 16, the defense included a  
4 specific instruction for the unanimity, and we would request  
5 that.

6           THE COURT: Let me see. Well, what is there in that  
7 that's different from what I gave?

8           MS. SAAD: Just, specifically, that an image  
9 must --

10          THE REPORTER: I can't hear you.

11          THE COURT: What? You have to speak up so she can  
12 hear you.

13          MS. SAAD: That they would have to agree that the  
14 image -- that the same image -- they have to agree on the  
15 specific --

16          THE COURT: You have to speak up.

17          MS. SAAD: Proof beyond a reasonable doubt on one is  
18 enough, but in order to return a guilty verdict, all of you  
19 must agree that the same one has been proved. All of you must  
20 agree that the government proved beyond a reasonable doubt  
21 that the defendant knowingly possessed a visual depiction of  
22 an actual minor of the same image.

23          THE COURT: Is the word "actual"?

24          MS. SAAD: And the proof beyond a reasonable doubt  
25 as to one image, Your Honor.

1           THE COURT: I'm trying to find out what it is that  
2 you've requested that's not included.

3           Is it the word "actual"?

4           MS. SAAD: Actual, yes.

5           THE COURT: Is that the only objection?

6           MS. SAAD: Yes, Your Honor.

7           THE COURT: Okay. Any other objection to the  
8 Charge?

9           MS. SAAD: I guess we would just -- we had requested  
10 that "minor" be defined as an actual minor.

11          THE COURT: Anything else?

12          MS. SAAD: No, Your Honor.

13          THE COURT: Okay. Those objections are overruled.

14          MS. SAAD: Thank you, Your Honor.

15          (In the hearing of the jury, as follows:)

16          THE COURT: Okay. From this point forward, the jury  
17 will decide its schedule. If you're still working midmorning,  
18 and it's almost midmorning, you'll decide whether you want to  
19 take a recess, and if so, when you want to do it. And if it's  
20 a matter of leaving the jury room to take a recess, let the  
21 court security officer know what you're doing, and how long  
22 you'll be taking the recess, so we can -- we'll know we can be  
23 at ease. Because we hang around and wait for y'all to return  
24 a verdict, and if y'all are going to take a recess, we'll take  
25 a recess, too.

1           And if you happen to still be working at lunchtime,  
2           you can decide when to go to lunch, and just let us know,  
3           through the foreperson telling the court security officer,  
4           when you're going and how long you'll plan to be gone.

5           Now, one of you -- Mr. \*\*\*\*\*, you're an alternate  
6           juror. The law contemplates that we'll select one or more  
7           alternates in case something happens to one of the other  
8           jurors where that other juror can't go forward.

9           Unfortunately -- and we've been fortunate in this  
10          case that nothing has happened to anybody else, but,  
11          unfortunately, the law is that the alternate cannot  
12          participate in deliberations unless something does happen to  
13          one of the other jurors.

14          Theoretically something -- they could start their  
15          deliberations and something could happen where one of them  
16          couldn't go forward, and then you would have to step in, and  
17          then you could participate in the deliberations.

18          Everybody seems to be pretty healthy looking, so I  
19          doubt if we're going to have that problem here, so I'm going  
20          to let you leave when they start deliberating, with the  
21          understanding that we might call you back.

22          Do you have a telephone number or telephone numbers  
23          you can give to the court security officer where he can get in  
24          touch with you on short notice and get you back up here?

25          JUROR: Yes, sir. Yes, sir.

1           THE COURT: Okay. If you would, you can leave and  
2 go about your business when they start deliberating, but we  
3 might call you.

4           JUROR: Okay.

5           THE COURT: So be sure and leave those phone  
6 numbers.

7           Now, you're still subject to all those instructions  
8 I've given you. Even though you're not sitting in the jury  
9 room with the other members, you're still a part of the jury  
10 system, so you're still subject to all those instructions I've  
11 given you about what to do and what not to do.

12          JUROR: Yes, sir.

13          THE COURT: So remember that. If it turns out  
14 that -- if it turns out that you're not called back, we'll let  
15 you know when the jury returns a verdict, so you'll know that  
16 you no longer are obligated to have the -- are at risk of  
17 coming back, and, of course, we'll tell you what the verdict  
18 is, if you're interested.

19          Now -- and this is applicable to all of the members  
20 of the jury panel, what I'm getting ready to tell him.

21          Once the jury has returned a verdict, all of you  
22 will be at liberty -- and I've accepted the verdict, all of  
23 you will be at liberty to discuss the case with anyone you  
24 want to discuss it with, with some exceptions: No one  
25 connected with the case, the attorneys, none of the witnesses,

1 no one connected with them, family members, or the defendant  
2 should have any contact with you, nor should you have any  
3 contact with any of them, and I don't think that will be a  
4 problem because I've never had a problem with it before. But  
5 if it happened to occur, you should let the Court know  
6 immediately, so we could take appropriate action.

7 Other than that -- and this applies to all of you --  
8 other than that, you'll be at liberty to discuss the case with  
9 anyone you want to discuss it with.

10 Okay. Y'all can start your deliberations now, and  
11 we'll get the verdict form and the exhibits into the jury room  
12 with the laptop.

13 COURT SECURITY OFFICER: All rise.

14 *(Jury recessed to begin deliberations)*

15 THE COURT: Have the attorneys agreed on a set of  
16 exhibits as being the ones that are actually in evidence?

17 MR. CURTIS: We have, Your Honor.

18 THE COURT: Okay. Very good.

19 MR. CURTIS: Your Honor, with permission of the  
20 Court, James Joseph Smith, who is the person we've been  
21 referring to and the Court has been referring to as  
22 Christopher Weast and the defendant, is demanding to make an  
23 offer of proof. Edmund, in the clerk's office, is downstairs  
24 available to turn the audio on, if the Court is willing to  
25 allow him to do that, so --

1           THE COURT: Well, find out what the offer of proof  
2 is before we take the time to do that. Have him tell you what  
3 the offer of proof is, and then we'll decide whether or not  
4 that's something we want to deal with.

5           Y'all can sit down while we're doing that.

6           MR. CURTIS: Okay.

7           MS. SALEEM: Your Honor, may I take the sanitized  
8 laptop and place it next to the exhibits?

9           THE COURT: Yes, you can.

10          MR. CURTIS: Your Honor, while I'm waiting for a  
11 reply, James Joseph Smith has requested to -- this morning,  
12 requested to me to convey to Ms. Saleem, which I did do, that  
13 Mr. Smith will plead Mr. Weast guilty, if the prosecutor will  
14 provide the bid bond, payment bond, performance bond, right  
15 now, so he can settle and discharge right now.

16          THE COURT: Okay.

17          MR. CURTIS: His trustee is sitting out there right  
18 now, which is Angela. This proffer -- this offer was made to  
19 Ms. Saleem and was rejected this morning.

20          THE COURT: Okay. Let me know what his -- is that  
21 the proffer he wished to make?

22          MR. CURTIS: I think -- no, I think that's a  
23 different matter, Your Honor.

24          THE COURT: Okay. Find out what his proffer is, so  
25 we can decide whether it is something that we should waste our

1 time with.

2 MR. CURTIS: The response was: He wants to make it  
3 on the record.

4 THE COURT: Okay. If you satisfy yourself, after  
5 consulting with him, that it's an appropriate thing to do,  
6 we'll consider that matter further. As it is, we're in recess  
7 while we're waiting for the jury.

8 I want at least one lawyer for each side to be in or  
9 right outside the courtroom throughout the jury deliberations  
10 in case there's a need to answer a note from the jury or in  
11 case the jury returns a verdict.

12 Okay. We're in recess until we hear from the jury.

13 *(Recess for Deliberations)*

14 *(Jury not present)*

15 COURT SECURITY OFFICER: All rise.

16 *(Judge enters)*

17 COURT SECURITY OFFICER: Please be seated.

18 THE COURT: Okay. The foreperson has advised the  
19 court security officer that the jury has reached a verdict,  
20 and has advised me that Ms. Saad wishes to present something  
21 to the Court before the jury comes in.

22 MS. SAAD: Yes, Your Honor. As indicated  
23 previously, Mr. Weast had an offer of proof.

24 As his attorney, I'm just conveying that Mr. Weast  
25 objects to the jurisdiction, that he's not a resident of the

1 United States, he's not a ward or minor of the government  
2 official in any capacity, and he's a natural man, a child of  
3 the living God, and the Court does not -- is not lawfully  
4 allowed to refer to him by a proper name and can be sued, if  
5 that's done. His name is James Joseph Smith.

6 *THE COURT:* Let me suggest something. I don't  
7 think, as his attorneys, you're obligated to interrupt court  
8 proceedings with his nonsense.

9 *MS. SAAD:* Understood, Your Honor.

10 *THE COURT:* So, is there anything you wish to convey  
11 to me that's not his nonsense?

12 *MS. SAAD:* One sole matter is the objection that he  
13 indicated under Rule 43 about his presence in the courtroom.

14 *THE COURT:* Does he want to be in the courtroom when  
15 the jury returns the verdict?

16 *MS. SAAD:* We can ask him, Judge.

17 *THE COURT:* Okay. Ask him.

18 *(Pause in Proceedings)*

19 *MR. CURTIS:* They are typing, Your Honor.

20 *THE COURT:* Pardon?

21 *MR. CURTIS:* He did not answer.

22 *THE COURT:* Okay. We're going to proceed. He can  
23 hear what's going on through our arrangement, so we'll  
24 proceed.

25 *MR. CURTIS:* They are typing again, so perhaps there



1 is an answer.

2 He wants you to answer him, Your Honor. That's what  
3 he said.

4 *THE COURT:* Okay. We'll bring the jury in.

5 *(Pause in Proceedings)*

6 *THE COURT:* How long do you think the forfeiture  
7 evidence will take?

8 *MS. SALEEM:* Your Honor, we just intend to reoffer  
9 what was offered at trial, so --

10 *THE COURT:* There won't be any additional evidence?

11 *MS. SALEEM:* That's correct, Your Honor.

12 *THE COURT:* Do either one of you want to make any  
13 argument on the forfeiture issue?

14 *MS. SALEEM:* Your Honor, will the Court instruct the  
15 jury with respect to what the second -- the second nature --  
16 or the forfeiture proceeding is?

17 If the Court does that, then --

18 *THE COURT:* Will the Court instruct the jury on  
19 what? I'm going to give the forfeiture instructions y'all  
20 have agreed on.

21 *MS. SALEEM:* Yes.

22 *MS. SAAD:* We have no argument, Your Honor.

23 *THE COURT:* Is all you want me to do is give the  
24 forfeiture instructions that you've agreed on?

25 *MS. SALEEM:* Actually, Your Honor, if I may have

1 just two minutes?

2 *THE COURT:* Okay.

3 *MS. SALEEM:* Thanks.

4 *COURT SECURITY OFFICER:* All rise.

5 *(Jury present)*

6 *COURT SECURITY OFFICER:* Please be seated.

7 *THE COURT:* Mr. \*\*\*\*\*, I understand you're the  
8 foreperson?

9 *FOREPERSON:* Yes, Your Honor.

10 *THE COURT:* And I understand the jury has reached a  
11 verdict?

12 *FOREPERSON:* We have, Your Honor.

13 *THE COURT:* Okay. If you would, hand it to the  
14 court security officer, so he can hand it forward.

15 Okay. The verdict appears to be in proper form, and  
16 so I'll have the courtroom deputy read the verdict aloud.

17 *COURTROOM DEPUTY:* Verdict of the Jury:

18 We, the jury, find the defendant, Christopher Robert  
19 Weast, guilty as to Count 1 of the third superseding  
20 indictment.

21 We, the jury, find the defendant, Christopher Robert  
22 Weast, guilty as to Count 2 --

23 *SPECTATOR PRENTICE MAYHALL:* This is bullshit.

24 *COURTROOM DEPUTY:* -- of the third superseding  
25 indictment.

1           *SPECTATOR PRENTICE MAYHALL:* This is bullshit.

2           *COURT SECURITY OFFICER:* Let's go.

3           *SPECTATOR PRENTICE MAYHALL:* Don't touch me, I'm  
4 leaving. It's bullshit.

5           *SPECTATOR MELANIE WEAST:* Hope your family doesn't  
6 ever have to be accused of something like this.

7           *SPECTATOR PRENTICE MAYHALL:* Injustice.

8           *COURT SECURITY OFFICER:* 106.

9           (Multiple spectators exiting courtroom)

10          *THE COURT:* Okay. Since the -- the verdict is in  
11 proper form. Since the law contemplates that the verdict will  
12 be the unanimous verdict of the jury, I always ask each juror,  
13 if you would, when I call your name, indicate whether or not  
14 the verdict of guilty as to each of the counts of the  
15 indictment is your verdict.

16                 Juror \*\*\*\*\* , is the verdict of guilty as to  
17 each count your verdict?

18                 *JUROR:* Yes, sir.

19                 *THE COURT:* Juror \*\*\*\*\* , is the guilty  
20 verdict as to each count your verdict?

21                 *JUROR:* Yes, Your Honor.

22                 *THE COURT:* Defendant \*\*\*\*\* -- oh, pardon me. I  
23 said defendant.

24                 (Laughter)

25                 *THE COURT:* \*\*\*\*\* , is the verdict of

1 guilty as to each count your verdict?

2 JUROR: Yes, Your Honor.

3 THE COURT: I apologize.

4 \*\*\*\*\* , is the verdict of guilty as to each  
5 count your verdict?

6 JUROR: Yes, Your Honor.

7 THE COURT: And I believe that's \*\*\*\*\*.

8 JUROR: Yes, sir.

9 THE COURT: I remembered now.

10 Okay. And Juror \*\*\*\*\* , is the guilty verdict as to  
11 each count your verdict?

12 JUROR: Yes, Your Honor.

13 THE COURT: And \*\*\*\*\* , is the verdict of  
14 guilty as to each count your verdict?

15 JUROR: Yes, Your Honor.

16 THE COURT: \*\*\*\*\* , is the verdict of guilty  
17 as to each count your verdict?

18 JUROR: Yes, Your Honor.

19 THE COURT: \*\*\*\*\* , is the verdict of guilty as  
20 to each count your verdict?

21 JUROR: Yes, Your Honor.

22 THE COURT: \*\*\*\*\* , is the verdict of guilty  
23 as to each count your verdict?

24 JUROR: Yes, Your Honor.

25 THE COURT: \*\*\*\*\* , is the verdict of guilty as

1 to each count your verdict?

2 *JUROR:* Yes, Your Honor.

3 *THE COURT:* \*\*\*\*\* \*\*\*\*\*, is the verdict of  
4 guilty as to each count your verdict?

5 *JUROR:* Yes, Your Honor.

6 *THE COURT:* \*\*\*\*\* \*\*\*\*\*, is the verdict of guilty as  
7 to each count your verdict?

8 *JUROR:* Yes, Your Honor.

9 *THE COURT:* Okay. Thank you.

10 Okay. I'm satisfied not only is the verdict in  
11 proper form, it is the unanimous verdict of the jury, so I'm  
12 signing the verdict to indicate the Court's accepted it, and  
13 I'm ordering it filed as the verdict of the jury.

14 We've got one other little project for you before we  
15 quit. The government included a request for forfeiture of, I  
16 guess, the laptop computer and the digital drive.

17 Is that what it is?

18 *MS. SALEEM:* Yes, Your Honor.

19 *THE COURT:* And that requires the verdict to answer  
20 two questions -- I mean, the jury to answer two questions, and  
21 I have some instructions that I'm going to give you on that  
22 subject. They are short, and I'm going to guess that this  
23 whole procedure won't take more than 15 minutes, so you've got  
24 a little bit more work ahead of you.

25 I'm going to read these forfeiture instructions to

1 you now.

2 Members of the Jury:

3 Now that you have decided that the defendant is  
4 guilty of the crimes charged in Counts 1 and 2 of the  
5 indictment, you must determine whether he must forfeit certain  
6 property to the government.

7 The indictment includes notice that certain property  
8 is subject to forfeiture of the government because of the  
9 defendant's commission of the crimes charged in Count 1, a  
10 violation of 18 United States Code Section 225A(a)(5) (sic),  
11 possession of child pornography, and Count 2, a violation of  
12 United States Code Section 2252(a)(2) -- A(a)(2), receipt of  
13 child pornography.

14 Let me stop there a minute. I just said the  
15 indictment included that notice. There was another page to  
16 the indictment that was not attached to your verdict form,  
17 that wasn't really relevant to what you were doing at that  
18 time, that requested that those things be forfeited to the  
19 government. That's what that meant when I said that.

20 18 United States Code Section 225(a) (sic) provides  
21 that any person convicted of a violation of 18 United States  
22 Code 2252A shall forfeit to the United States of America and  
23 any -- and any property, real or personal -- I think that word  
24 "and" ought not to be there. Shall forfeit to the United  
25 States of America any property, real or personal, used or

1 intended to be used to commit or to promote the commission of  
2 the offense and any property traceable to such property.

3 "Forfeiture" means to be divested or deprived of  
4 ownership of something as a penalty for the commission of a  
5 crime. To be entitled to forfeiture of property as a result  
6 of the defendant's conviction on Count 1, the government must  
7 prove by a preponderance of the evidence that the property  
8 sought to be forfeited was used or intended to be used to  
9 commit or to promote the commission of that offense and any  
10 property traceable to that property.

11 To be entitled to forfeiture of property as a result  
12 of the defendant's conviction on Count 2, the government must  
13 prove by a preponderance of the evidence that the property  
14 sought to be forfeited was used or intended to be used to  
15 commit or to promote the commission of that offense and any  
16 property traceable to that property.

17 While deliberating on the forfeiture issue, you may  
18 consider any evidence offered by the parties at any time  
19 during the trial -- in other words, everything you've already  
20 heard is evidence you'll consider in connection with this --  
21 including testimony offered by the government or the defendant  
22 before or after your previous deliberations.

23 However, you must reexamine your previous  
24 verdict -- you must not reexamine your previous verdict  
25 regarding guilt of the defendant in question. Your previous

1 findings that the defendant is guilty of the offenses charged  
2 by Counts 1 and 2 are final, conclusive, and binding.

3 Because you are bound by your previous findings that  
4 the defendant is guilty, I direct you not to discuss in your  
5 forfeiture deliberations whether the defendant is guilty or  
6 not guilty of the crimes charged in Counts 1 and 2.

7 With an exception I will explain to you in a moment,  
8 all of my previous instructions regarding direct and  
9 circumstantial evidence, credibility of witnesses, and the  
10 duty to deliberate, I will explain to you in a moment all of  
11 my previous instructions apply with respect to your verdict  
12 regarding forfeiture. In other words, what I've instructed  
13 you earlier about deliberating and how you judge the  
14 credibility of witnesses and so on, that still applies.

15 My previous instructions concerning the government's  
16 burden of proving the defendant's guilt beyond a reasonable  
17 doubt do not apply, however, to your deliberations and verdict  
18 regarding forfeiture. In the forfeiture portion of this  
19 trial, the government must prove by a preponderance of the  
20 evidence that the property is subject to forfeiture, and the  
21 government is not required to prove beyond a reasonable doubt  
22 that the property is subject to forfeiture.

23 A "preponderance of the evidence", which is the  
24 burden the government has now, means such evidence as, when  
25 considered and compared with that opposed to it, has more



1 convincing force and produces in your minds a belief that what  
2 is sought to be proved is more likely true than not true.

3 In other words, a "preponderance of the evidence"  
4 means that the government's evidence, when considered and  
5 compared with that opposed to it, has more convincing force  
6 and produces in your minds a belief that the property was used  
7 or intended to be used to commit or to promote the commission  
8 of the offenses charged in Counts 1 and 2. A preponderance of  
9 the evidence is a lower standard of proof that -- and is  
10 less -- a less strict standard than proof beyond a reasonable  
11 doubt.

12 In determining whether any fact in issue has been  
13 proved by a preponderance of the evidence, you may consider  
14 the testimony of all witnesses, regardless of who may have  
15 called them, and all exhibits received in the record,  
16 regardless of who may have produced them.

17 You are instructed that what happens to any property  
18 that is declared forfeited is exclusively a matter for the  
19 court to decide. You should consider what might happen to  
20 the -- you should not consider what might happen to the  
21 property in determining whether the property is subject to  
22 forfeiture. You must disregard any claims that any person may  
23 have to the property. The interest of any person -- the  
24 interest that any other person may have in the property will  
25 be taken into account by the court at a later time.

1           Additionally, you must reach a unanimous verdict as  
2 to each question in the verdict form. Each juror must agree  
3 that the government has proved by a preponderance of the  
4 evidence that the property to be forfeited was used or  
5 intended to be used to commit or to promote the commission of  
6 the crimes charged in Counts 1 and 2.

7           A verdict form has been prepared for your use. The  
8 form lists the property that the indictment states was used or  
9 intended to be used to commit or promote the commission of the  
10 crimes charged in Counts 1 and 2.

11           And that's the end of the instructions.

12           The verdict form on this part is just answering two  
13 questions, and I'll read it:

14           We, the jury, in the above-entitled case -- and  
15 that's this case -- find the following concerning the  
16 forfeiture of the property.

17           And it has an instruction: Answer yes or no in the  
18 place provided below. If the government has met its burden of  
19 proof, and that is by a preponderance of the evidence, answer  
20 yes; otherwise, answer no.

21           In Question Number 1: Did the government prove by a  
22 preponderance of the evidence that the HP laptop computer,  
23 serial number -- and I'm not going to use the number -- seized  
24 from the defendant's residence in White Settlement, Texas, on  
25 July 10, 2012, was used or intended to be used to commit or to

1 promote the offense charged in Count 1 of the indictment?

2 And that's to be answered either with a yes or a no  
3 by the foreperson putting -- it will be a unanimous answer, by  
4 a preponderance of the evidence. The foreperson will put the  
5 answer.

6 And the Question Number 2: Did the government prove  
7 by a preponderance of the evidence that the Western Digital  
8 external drive, serial number -- and it has the number --  
9 seized from the defendant's residence in White Settlement,  
10 Texas, on July 10, 2012, was used or intended to be used to  
11 commit or to promote the offense charged by Count 1 of the  
12 indictment?

13 And then there are identical questions as to the  
14 Count 2 of the indictment. I think they are identical as to  
15 Count 1, except it says Count 2, so I'm not going to read  
16 those.

17 There won't be any more evidence, so you don't have  
18 to hear any more evidence. You've heard all the evidence you  
19 need to hear to decide that.

20 I'm going to give the attorneys an opportunity to,  
21 if they want to make a statement in support of their position  
22 on it.

23 Does the government wish to make a statement?

24 *MS. SALEEM:* Yes, Your Honor, but may we approach  
25 the bench very briefly?

1           THE COURT: Yes.

2           *(Bench conference on the record, out of the hearing*  
3           *of the jury, as follows:)*

4           MR. CURTIS: He's not in the room on the third  
5 floor, and I just thought you would want to know that.

6           THE COURT: He what?

7           MR. CURTIS: He's not in the room on the third  
8 floor.

9           THE COURT: What happened to him?

10          MR. CURTIS: From what Pat tells me, he -- when the  
11 verdict came back, he asked -- he wanted to leave and the  
12 marshal -- I guess he got disruptive, and the marshal took him  
13 out.

14          THE COURT: What?

15          MR. CURTIS: He got disruptive.

16          THE COURT: In other words, they took him out?

17          MR. CURTIS: They took him out. But he said he  
18 didn't want to be there anymore, so I just thought you needed  
19 to know that, Your Honor. I don't know what to do about it,  
20 and I'm not making a suggestion.

21          THE COURT: Well, I don't think it's necessary. If  
22 he doesn't want to participate in this proceeding, I guess  
23 that's his business.

24          MR. CURTIS: I just wanted to let you know, Your  
25 Honor.

1           MS. SALEEM: And, Your Honor, if -- I'm just not  
2 sure if I technically have to just reoffer the evidence in  
3 front of the jury, just so that you can say it's accepted and  
4 received.

5           THE COURT: If you have to what?

6           MS. SALEEM: Specifically say in front of the jury  
7 that we reoffer the evidence.

8           THE COURT: You don't have to, because I've told  
9 them they will consider it.

10          MS. SALEEM: Okay.

11          THE COURT: I've already told them that.

12          MS. SALEEM: All right.

13          THE COURT: Okay.

14          (In the hearing of the jury, as follows:)

15          THE COURT: Okay. Ms. Saleem wants to make a  
16 statement or two before we -- before you deal with this.

17          MS. SALEEM: I just wanted to give you just a  
18 general road map. This is simply more of a housekeeping type  
19 of a procedure at this point.

20                 We're talking about the laptop computer and the  
21 Western Digital hard drive and whether the defendant should be  
22 entitled to keep those items at this point. We would submit  
23 that he should have to surrender those things to the  
24 government because they contain contraband, and, more  
25 importantly, they were tools of the trade.

1           So that's why we're asking that you go back, and  
2           that you answer yes to each of the questions, was the laptop  
3           computer and the Western Digital hard drive, that we've been  
4           talking about through the course of this trial, used to  
5           further the commission of, used to hide, used to facilitate  
6           the commission of both the possession of child pornography and  
7           the receipt of child pornography. Thank you.

8           *THE COURT:* Okay. I'm going to -- y'all will go  
9           back and deliberate over this limited matter we're dealing  
10          with now.

11          We'll have the first special verdict form brought  
12          in. Once you've reached a unanimous decision as to  
13          these -- it's four questions -- the foreperson would write the  
14          decision, either yes or no in each one, and then sign it and  
15          date it, and let the court security officer know when that's  
16          been done.

17          I think the exhibits are still in there, if you need  
18          to look at them for something.

19          Okay. Y'all go, if you would, deliberate on that.

20          *COURT SECURITY OFFICER:* All rise.

21          (Jury not present)

22          *THE COURT:* Ms. Saad, it just dawned on me, I didn't  
23          invite you to speak. I think I already understood you didn't  
24          want to speak.

25          *MS. SAAD:* That's correct, Your Honor.

1           THE COURT: Okay. Y'all can sit down.

2           Again, hang around while the jury is doing what it's  
3 going to do, and I don't think it will take long, but we'll be  
4 in -- I'll be in recess while that's happening.

5           Here's a copy for each side of that verdict, special  
6 verdict form, if you need it. It's exactly what you --  
7 exactly what you had agreed on, and here's the forfeiture  
8 instruction for each side.

9           MS. SAAD: Your Honor, may I step out briefly?

10          THE COURT: Yeah, you can step out.

11          MS. SAAD: Thank you, Your Honor.

12          *(Recess for deliberations)*

13          *(Defendant Weast present via video conference)*

14          COURT SECURITY OFFICER: All rise.

15          *(Jury present)*

16          COURT SECURITY OFFICER: Please be seated.

17          *(Pause in Proceedings)*

18          COURT SECURITY OFFICER: All rise.

19          *(Judge enters)*

20          COURT SECURITY OFFICER: Please be seated.

21          THE COURT: Okay. Mr. \*\*\*\*\*, I understand the jury  
22 has returned a verdict on the forfeiture part of the case?

23          FOREPERSON: Yes, Your Honor.

24          THE COURT: Okay. If you would, hand it to the  
25 court security officer.

1           Okay. The special verdict form on the forfeiture  
2 part of the case has an answer yes to Question 1, an answer  
3 yes to Question 2, an answer yes to Question 3, and an answer  
4 yes to Question 4.

5           I'll just ask everybody on the jury who agrees that  
6 that is your -- that that is your verdict, the yes answer to  
7 each question, raise your hand, all of you who agree to that.

8           (Jurors all raised their hands)

9           *THE COURT:* Everybody raised their hand, so  
10 everybody voted. Thank you. You can put your hand back down.

11           I'm accepting -- that's in proper form, and I'm  
12 satisfied it's the unanimous verdict of the jury, so I'm  
13 accepting that part of the verdict.

14           Okay. You've done your jobs. Sometimes jurors want  
15 to know just a little bit about when the sentencing will be  
16 and that sort of thing. I'm not going to take much more of  
17 your time because I know you're anxious to go, but some of you  
18 might have an interest in knowing, very briefly, where we go  
19 from here.

20           The sentencing in this case will be at 9:00 a.m. in  
21 this courtroom on November 14, 2014. I think I've indicated  
22 earlier that the judge imposes the sentence, and it's so far  
23 off in the future because a lot of things have to be done  
24 between now and then.

25           Y'all have determined, by your verdict, that the



1 defendant is guilty of the two counts of the indictment. Now,  
2 a probation officer has to be assigned to the case, and the  
3 probation officer does an investigation to get information  
4 that would help me evaluate what kind of sentence, within the  
5 statutory range of sentence, should be imposed.

6 There's a statute that tells me what the upper  
7 sentence should be, the top sentence should be, for each of  
8 these offenses, and then I have to have more information to  
9 know what would be an advisable sentence, in this particular  
10 case, within that statutory range.

11 And so we have a probation officer assigned to the  
12 case who investigates and gets me background information,  
13 other criminal history, if any, and things like that, and  
14 then prepares a report for me and that -- each side has an  
15 opportunity to object to that report, if they want to. And if  
16 they do object to it, the probation officer responds to those  
17 objections. It's a time-consuming process.

18 We're probably more careful in our sentencing in  
19 federal court than maybe in the state courts because we don't  
20 have parole in the federal system. You'll read about somebody  
21 in the state system that may be sentenced to 20 years in  
22 prison, and they will be out after 3 or 4 years on parole.

23 We don't have any such thing as that. If somebody  
24 gets sentenced to a certain period of time, they serve that  
25 period of time, except you get, I think it's a 55-day credit

1 per year, if you conduct yourself properly in prison, but  
2 that's the only reduction there is, unless Congress comes  
3 along and changes the law somehow or other, which has happened  
4 from time to time.

5 I don't know that any of you would be interested in  
6 coming to the sentencing, but it would be in this courtroom,  
7 and the public is welcome to attend, if anybody should happen  
8 to want to see what happens at the sentencing.

9 Remember the instructions I gave you about who  
10 you're at liberty to talk to, and that's anybody, except  
11 certain people, and I've told you who those are, and none of  
12 those people are to have any contact with you.

13 I've never had a problem with that before, and I  
14 don't think I will in this case, but if anybody that should  
15 not be in contact with you were to contact you, let us know  
16 immediately because that would be a serious matter that we  
17 would deal with promptly.

18 Okay. Thank you for your service, and you're  
19 excused at this time.

20 *COURT SECURITY OFFICER:* All rise.

21 *(Jury not present)*

22 *THE COURT:* Mr. Weast, I'm going to give you some  
23 explanations about the sentencing process. I'm told that  
24 you're back in the room and that the communication system is  
25 working where you can hear everything I'm saying.

1 I'm signing an order now that fixes the time and  
2 date for your sentencing at 9:00 a.m. on November 14 -- I  
3 believe I said November -- yes, November 14, 2004 (sic). It  
4 will be before me in this courtroom.

5 Your attorneys will arrange a time when the  
6 probation officer who will be assigned to your case can  
7 interview you, and the purpose of that interview is so the  
8 probation officer can obtain from you information relevant to  
9 the sentencing process.

10 Of course, the probation officer will get  
11 information on that subject from other sources. Once the  
12 probation officer has enough information to determine what  
13 sentencing guidelines apply to your case and what the  
14 sentencing ranges are in your case under those guidelines, the  
15 probation officer will prepare a written document called a  
16 presentence report, and will put in that document the  
17 probation officer's opinions on those subjects, and will also  
18 put in that document a recitation of the facts the probation  
19 officer relied on in reaching those opinions.

20 The attorneys in your case will receive -- each  
21 attorney will receive a copy of the report, and you'll receive  
22 a copy. I'll get the original.

23 I rely very heavily on those reports in determining  
24 what sentence to impose, so they need to be as complete and as  
25 accurate as possible. When you receive a copy of your report,

1 study it very carefully, and if there's anything in it you  
2 think is wrong, or if you think something is left out that  
3 ought to be in it, you can tell your attorneys and they will  
4 file whatever appropriate objections might be filed based on  
5 what you tell them.

6 Then I'll rule on those objections at or before the  
7 sentencing hearing. Of course, you and your attorneys both  
8 will be permitted to speak on your behalf in mitigation at the  
9 sentencing hearing.

10 I'm signing an order today that fixes a timetable  
11 for accomplishment of things that have to be accomplished  
12 between now and the date of sentencing, and the attorneys will  
13 get copies of the order, and your attorneys will see that you  
14 receive a copy.

15 Okay. The defendant's remanded to custody, and the  
16 attorneys are excused.

17 *MS. SALEEM:* Your Honor, if I may address just one  
18 matter?

19 With respect to the physical evidence that was  
20 introduced, the Exhibit 37, which was the laptop computer, and  
21 38, which was the Western Digital hard drive, I guess for  
22 purposes of, once the case is on appeal, if we may substitute  
23 photographs and retain the original bulk evidence?

24 *THE COURT:* That -- does the defendant have any  
25 objection to that?

1 MS. SAAD: No objection, Your Honor.

2 THE COURT: Okay. There are some other -- that DVD,  
3 it would probably be a good idea if you kept possession of  
4 that, Exhibit 48.

5 MS. SALEEM: Yes, Your Honor.

6 THE COURT: And so we'll -- and then there are those  
7 photographs, exhibits -- let's see, Exhibits 44 through 47,  
8 and then 49, the photographs of the children. It might be a  
9 good idea for you to keep possession of those, too, unless  
10 there's some objection from the defense.

11 MR. CURTIS: The only thing is I have no doubt that  
12 we'll want those exhibits and images. As opposed to the  
13 laptop and the hard drive, I'm sure we'll want those images  
14 and the video to go to the Fifth Circuit, Your Honor, so I  
15 don't know if that makes it easier if it just -- they remain  
16 in the custody.

17 And the DVD is just a copy of the video that's  
18 actually on the computer, so I don't mind the Court and the  
19 Fifth Circuit having that, so that they can look at it.

20 THE COURT: Well, we'll keep Exhibits 44 through 47  
21 and 49, and we'll keep them under seal.

22 MR. CURTIS: Okay. Thank you.

23 MS. SALEEM: And, Your Honor, I believe it's 42  
24 through 47 are the child pornography exhibits.

25 THE COURT: Is it 42 through 47, instead of 44?

1           MS. SALEEM: Yes, Your Honor, and then 49, you were  
2 correct.

3           THE COURT: Okay. Well, we'll keep those, and we'll  
4 keep them under seal.

5           MS. SALEEM: Yes.

6           THE COURT: The DVD, I don't know why we don't just  
7 keep it and keep it under seal.

8           MR. CURTIS: I agree, Your Honor.

9           THE COURT: And then the government will keep the  
10 laptop and the Western Digital external drive.

11           Let me ask Fleather something.

12           *(Bench Conference with Courtroom Deputy)*

13           THE COURT: Okay. I don't think there's anything  
14 else we need to do. I'm going to give back the government's  
15 exhibit volume, our copy of it, the extra copy.

16           I believe that's all we need to do, so the attorneys  
17 are excused.

18           MR. CURTIS: Thank you, Your Honor.

19           *(End of Proceedings)*  
20  
21  
22  
23  
24  
25

**REPORTER'S CERTIFICATE**

I, Debra G. Saenz, CSR, RMR, CRR, certify that the foregoing is a true and correct transcript from the record of proceedings in the foregoing entitled matter.

I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signed this 21st day of January, 2015.

/s/ Debra G. Saenz

DEBRA G. SAENZ, CSR, RMR, CRR  
Texas CSR No. 3158  
Official Court Reporter  
The Northern District of Texas  
Fort Worth Division

CSR Expires: 12/31/15

Business Address: 501 W. 10th Street, Room 424  
Fort Worth, Texas 76102

Telephone: 817.850.6661

E-Mail Address: debbie.saenz@yahoo.com

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